

Introduced by Senator Beall

December 1, 2014

An act to amend Section 233 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 29, as introduced, Beall. Employment: sick leave.

Existing law requires an employer to allow an employee to use his or her sick leave to care for an ill spouse, domestic partner, parent, or child, as defined.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 233 of the Labor Code is amended to
2 read:
3 233. (a) Any employer who provides sick leave for employees
4 shall permit an employee to use in any calendar year the
5 employee's accrued and available sick leave entitlement, in an
6 amount not less than the sick leave that would be accrued during
7 six months at the employee's then current rate of entitlement, to
8 attend to an illness of a child, parent, spouse, or domestic partner
9 of the employee. All conditions and restrictions placed by the
10 employer upon the use by an employee of sick leave also shall
11 apply to the use by an employee of sick leave to attend to an illness
12 of his or her child, parent, spouse, or domestic partner. This section

1 does not extend the maximum period of leave to which an
2 employee is entitled under Section 12945.2 of the Government
3 Code or under the federal Family and Medical Leave Act of 1993
4 (29 U.S.C. Sec. ~~2606~~ 2601 et seq.), regardless of whether the
5 employee receives sick leave compensation during that leave.

6 (b) As used in this section:

7 (1) “Child” means a biological, foster, or adopted child, a
8 stepchild, a legal ward, a child of a domestic partner, or a child of
9 a person standing in loco parentis.

10 (2) “Employer” means any person employing another under
11 any appointment or contract of hire and includes the state, political
12 subdivisions of the state, and municipalities.

13 (3) “Parent” means a biological, foster, or adoptive parent, a
14 stepparent, or a legal guardian.

15 (4) “Sick leave” means accrued increments of compensated
16 leave provided by an employer to an employee as a benefit of the
17 employment for use by the employee during an absence from the
18 employment for any of the following reasons:

19 (A) The employee is physically or mentally unable to perform
20 his or her duties due to illness, injury, or a medical condition of
21 the employee.

22 (B) The absence is for the purpose of obtaining professional
23 diagnosis or treatment for a medical condition of the employee.

24 (C) The absence is for other medical reasons of the employee,
25 such as pregnancy or obtaining a physical examination.

26 “Sick leave” does not include any benefit provided under an
27 employee welfare benefit plan subject to the federal Employee
28 Retirement Income Security Act of 1974 (Public Law 93-406, as
29 amended) and does not include any insurance benefit, workers’
30 compensation benefit, unemployment compensation disability
31 benefit, or benefit not payable from the employer’s general assets.

32 (c) No employer shall deny an employee the right to use sick
33 leave or discharge, threaten to discharge, demote, suspend, or in
34 any manner discriminate against an employee for using, or
35 attempting to exercise the right to use, sick leave to attend to an
36 illness of a child, parent, spouse, or domestic partner of the
37 employee.

38 (d) Any employee aggrieved by a violation of this section shall
39 be entitled to reinstatement and actual damages or one day’s pay,
40 whichever is greater, and to appropriate equitable relief.

1 (e) Upon the filing of a complaint by an employee, the Labor
2 Commissioner shall enforce the provisions of this section in
3 accordance with the provisions of Chapter 4 (commencing with
4 Section 79) of Division 1, including, but not limited to, Sections
5 92, 96.7, 98, and 98.1 to 98.8, inclusive. Alternatively, an employee
6 may bring a civil action for the remedies provided by this section
7 in a court of competent jurisdiction. If the employee prevails, the
8 court may award reasonable attorney's fees.

9 (f) The rights and remedies specified in this section are
10 cumulative and nonexclusive and are in addition to any other rights
11 or remedies afforded by contract or under *any* other provisions of
12 law.

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